

## CHAPTER 5.34

### Towing Services

#### 5.34.010 Purpose.

The purpose of this Chapter is to establish rules and regulations, pursuant to the Towing Carrier Rules of the State, for the towing and storage of motor vehicles from the City's public roadways by operators engaged in the business of towing and storing motor vehicles. (Ord. 585-13 §1)

#### 5.34.020 Scope.

The provisions of this Chapter shall apply to those businesses that engage in towing and storage of motor vehicles within the City. (Ord. 585-13 §1)

#### 5.34.030 Definitions.

For the purposes of this Chapter, the words and phrases below shall have the following meanings:

*Abandoned/inoperable motor vehicle* means a motor vehicle, as defined by Sections 42-4-1802(1) and 42-4-2102(1), C.R.S., and as the terms *abandoned vehicle* and *inoperable vehicle* are defined in Section 8.24.020 of this Code.

*Accident vehicle* means a motor vehicle that has been involved in an accident.

*Disabled vehicle* means any motor vehicle that is unable to operate under its own power.

*Heavy-duty recovery* means the recovery of any motor vehicle over ten thousand (10,000) pounds gross vehicle weight which requires the vehicle to be uprighted or recovered from either on or off the traveled portion of a public roadway.

*Heavy-duty towing* means the towing of any motor vehicle over ten thousand (10,000) pounds gross vehicle weight.

*Impounded vehicle* means a vehicle which, at the direction of the Police Department, is taken into police custody because the operator of the vehicle was engaged in a violation of the law, including but not limited to the operator being arrested on a DUI charge, the operator having been arrested for driving without registration or insurance, the operator having been arrested for stealing the motor vehicle or the vehicle having been involved in a serious accident.

*Light-duty towing* means the towing of any motor vehicle up to and including ten thousand (10,000) pounds gross vehicle weight.

*Motor vehicle* means all vehicles propelled otherwise than by muscular power, including trailers and recreational campers, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

*Storage rates* means fees charged for the storage of motor vehicles.

*Towing list* means a rotating list of all towing services registered with the City kept by the Chief of Police or his or her designee.

*Towing rates* means fees charged by a towing service for removal and transportation of a motor vehicle.

*Towing service* means a licensed and insured business engaged in the towing and storing of motor vehicles that has been approved for the towing list.

*Towing vehicle* means a motor vehicle employed by a towing service for the purpose of towing, transporting, conveying or removing motor vehicles from public roadways. (Ord. 585-13 §1)

#### **5.34.040 Towing service registration.**

A. No towing service shall be placed upon the towing list for the towing or storing of motor vehicles within the City unless the towing service shall first register and, upon notification of placement, retain a valid business license and sales tax license with the City. In order to facilitate expeditious response once a towing service is requested, to be placed on the towing list for light-duty towing, a towing service must be located within five (5) miles of the Evans Community Complex, 1100 37th Street, Evans, Colorado, or within the City. Registration applications shall be made available by the Police Department. A towing service that has met all the specifications and requirements of this Chapter and has registered with the Police Department shall be placed on the towing list by the Chief of Police; however, the maximum number of towing services on the City towing list shall be three (3) such services. Services shall be placed on the towing list on a first-come first-served basis. Vacancies shall be filled in the same manner. Each towing service must submit its schedule of basic towing and storage rates with its registration application. The rates and fees for towing and storage of motor vehicles shall not exceed the rates set by the Colorado Public Utilities Commission.

B. A nonregistered tow service will not be permitted to tow a vehicle from a scene or incident which is under Police Department control and/or investigation except by owner's request or where a tow service was unable to provide required service.

C. The towing service owner or its authorized representative shall sign the registration application form indicating that the full requirements of the Towing Carrier Rules (TCR) of the Rules Regulating Transportation by Motor Vehicle have been met and rules set forth in this Chapter have been met by the towing service applicant.

D. If any information provided by a towing service in its registration application changes, the towing service is responsible for notifying the Police Department of the change in the registration information within thirty (30) days of such change. Failure to comply with this provision will be deemed a violation of this Chapter. (Ord. 585-13 §1)

#### **5.34.050 Insurance, City sales tax license and business license and operating permit.**

A. No towing service shall operate within the City unless it carries liability insurance in the following amounts:

1. Garage liability/comprehensive general liability insurance policy in an amount not less than one million dollars (\$1,000,000.00) combined single limit covering bodily injury and property damage liability, including but not limited to personal injury, products' liability, independent contractor and completed operation coverage;

2. Garage keeper's legal liability insurance policy in an amount not less than fifty thousand dollars (\$50,000);

3. For heavy-duty towing and heavy-duty recovery vehicles, one million dollars (\$1,000,000.00) combined single limit with endorsement MSC-90;

4. Automobile liability insurance policy in an amount not less than one million dollars (\$1,000,000.00) combined single limit covering bodily injury and property damage liability, including but not limited to owned, non-owned and hired vehicles;

5. Worker's compensation insurance as required by law, including but not limited to statutory Colorado worker's compensation benefits and employer's liability coverage;

6. All policies shall provide an endorsement for collision coverage for motor vehicles and cargo towed by towing service vehicles.

B. No towing service shall operate within the City unless it has a valid sales tax license from the City.

C. No towing service shall operate within the City unless it has a valid business license from the City.

D. Towing service must receive an operating permit from the Public Utilities Commission and provide a copy to the Police Department. Towing services are also subject to the rules and regulations as promulgated by the Public Utilities Commission. (Ord. 585-13 §1)

#### **5.34.060 Rates, fees and collection of fees.**

A. The fees and rates for the towing and storage of motor vehicles shall be established by the Public Utilities Commission (PUC), which rates shall be based on the usual, customary and reasonable rates of operators towing and storing motor vehicles. All rates shall be posted in a conspicuous location as to be visible to customers within every towing service office. The fees and rates established by the PUC, and any subsequent revisions thereto, shall be retained by the City Clerk and shall be made available to the public during normal business hours of the City.

B. The City assesses an administrative fee on each tow service provider registered with the City. The tow fees are in addition to any services provided by the tow company.

C. All towing service companies shall be responsible for collection of all fees and rates for services rendered. In addition, prior to releasing a vehicle towed at the direction of the Police Department, all registered towing services shall collect the City administrative towing fee of twenty-six dollars (\$26.00) from every vehicle owner. Monies collected for the City administrative towing fee will be sent on a monthly basis by check made payable to the "City of Evans." Failure to comply with this Section will result in immediate suspension of services. The City administrative towing fee offsets the costs associated with tow service registration, inspections, data management and certified mail correspondence. (Ord. 585-13 §1)

#### **5.34.070 Rules and regulations.**

A. All towing services placed on the towing list shall be available to respond to a call in accordance with the towing rotation schedule of on-call status established by the Chief of Police.

B. All towing services shall respond to a call in any part of the City within thirty (30) minutes. If a towing service does not respond within thirty (30) minutes of a call, the towing service next on the towing list shall be called and entitled to provide services as needed, and the first towing service shall lose any claim to compensation. Repeated failures to respond to calls in a timely manner by a towing service will result in removal of the towing service from the City's towing list.

C. All drivers and operators of towing vehicles shall be properly licensed to operate a motor vehicle within the State and are subject to driver's license checks by the Police Department at the time of registration and at least on an annual basis thereafter. All towing vehicles shall be properly registered and inspected in accordance with any applicable laws. Lack of reputability of the driver or owner will be cause for denial or removal from the towing list, including but not limited to:

1. Conviction of any felony when the person's civil rights have not been restored.

2. Conviction of any felony or first-degree misdemeanor directly related to the business of operating a towing service or tow truck, regardless of whether civil rights have been restored. For the purpose of this policy, any offense involving perjury or false statement shall be considered to be directly related to the business of operating a towing service.

3. Responding to a call while under the influence of alcohol or any controlled substance or chemical substance to the extent that his or her normal faculties are impaired.

4. Conviction of the offense of driving under the influence of alcohol or any controlled or chemical substance to the extent that normal faculties are impaired or driving with an unlawful blood alcohol level, or of any criminal traffic offense.

D. All vehicles must be towed in a safe manner.

E. All towing services shall be capable of providing reasonable roadside services to disabled vehicles, such as, but not limited to, jump-starting, changing of flat tires and providing fuel. Such services will only be performed if they can be done safely, as determined by the police officer on the scene. All towing services shall charge only reasonable rates for such roadside services. Charging of excessive fees for roadside services shall be grounds for the removal of a towing service from the towing list.

F. All towing services shall make available a copy of their basic rates and provide a business card to all owners and operators of motor vehicles that will be towed.

G. All towing services shall keep accurate records of all motor vehicles towed and stored at the direction of the Police Department. A copy of all such records shall be provided to the Police Department monthly by fax, email or mail. During the first week of every month, all registered towing services will send a report containing all the previous month's towed vehicles report at the direction of the Police Department.

H. Towing services shall not remove any motor vehicle which has been abandoned or involved in an accident in any public roadway without first notifying the Police Department.

I. The towing service shall notify the Police Department of all vehicles found by the towing service to have been abandoned and not claimed after being stored. The Police Department shall, upon notification, expeditiously process the vehicles in accordance with the Colorado Motor Vehicle Code concerning abandoned and unclaimed motor vehicles.

J. The City Council authorizes the Police Department to promulgate and revise administrative rules regarding the operation of towing services as necessary. Notice of said amendments will be made to all registered tow service owners and shall become effective immediately upon receipt of said notifications. (Ord. 585-13 §1)

#### **5.34.080 Towing list and towing list rotation.**

A. A towing list will be kept with the Chief of Police. The towing list shall include all towing services that have registered with the City and will be forwarded to the Weld County Communications Center for rotation purposes. A towing service shall be placed on the bottom of the towing list upon registration. The towing list shall be a rotating list as provided in Subsections B, C, D and E below.

B. When the need arises, the Police Department will call the towing service on the top of the list, which is on-call on the towing rotation schedule. The towing service called, if it performs any of the services covered by this Chapter, shall be placed at the bottom of the towing list after providing such service and not called again until all other on-call towing services on the towing list have been called.

C. If a towing service is unavailable to perform required services when called by the Police Department, for whatever reason, said towing service shall be charged with a call and placed at the bottom of the towing list, and the next available on-call towing service shall be called. The towing service that responds in its place shall remain at the top of the list.

D. If a towing service, after being dispatched, is recalled and does not perform any duties or services covered by this Chapter, the towing service shall remain on the top of the towing list. However, if a towing service arrives at the scene of an incident in which its services are required and cannot perform said services, it shall be placed at the bottom of the towing list, and the next on-call towing service on the list shall be called.

E. When a towing service is not available to respond due to equipment and/or mechanical failure, the Weld County Communication dispatcher will be notified of the condition by the towing service owner and/or operator, and will be removed from the available list until notified by the owner and/or operator that he or she is again ready for immediate service. (Ord. 585-13 §1)

#### **5.34.090 Storage facilities.**

A. All storage facilities operated or used by towing services shall meet all local zoning and code requirements and must be located within five (5) miles of the Evans Community Complex, 1100 37th Street, Evans, Colorado, or within the City.

B. All towing services shall have indoor storage facilities at their disposal for motor vehicles that have been involved in criminal activity and impounded by the Police Department.

C. All storage facilities shall have a business office open to the public between normal business hours at least five (5) days a week, excluding holidays.

D. All outside storage facilities shall be secured and fully enclosed by a sturdy fence having a minimum height of six (6) feet, with a lockable gate for ingress and egress, and shall be lighted from dusk to dawn. Towing services with additional security recorded monitoring devices (CCTV) will be preferred during the selection process over towing services without recorded monitoring devices.

E. All towing services shall be responsible for ensuring the proper and safe storage of all motor vehicles towed pursuant to this Chapter and shall be liable for any damage incurred by such motor vehicles while in transit to or while stored in the storage facilities, excepting only damage caused by law enforcement officers during a motor vehicle stop or investigation.

F. If the Police Department places a hold on a towed vehicle, such hold shall last a maximum of ten (10) days, during which time no storage fees will accrue. At the end of the tenth business day, the hold will expire unless other arrangements have been made and storage fees will begin to be assessed to the vehicle owner. All vehicles towed at the direction of the Police Department where the vehicle, not the contents, is considered as evidence will have a police hold and shall be stored without accruing storage fees. (Ord. 585-13 §1)

#### **5.34.100 Towing vehicle and equipment specifications.**

A. All towing services engaged in light-duty towing shall have at least one (1) rollback truck and one (1) wrecker, with necessary brooms and equipment to do the complete removal. Each truck must have a manufacturer's capacity of at least (10,000) pounds gross vehicle weight and a manufacturer's boom capacity of four (4) tons. Proof of capacity must be supplied to the Police Department at the time of registration.

B. All towing services engaged in heavy-duty towing shall have one (1) heavy-duty wrecker with a manufacturer's capacity of not less than twenty-seven thousand (27,000) pounds gross vehicle weight and a boom capacity of not less than twenty-five thousand (25,000) pounds independently or twenty-four (24) tons jointly; air brakes so constructed as to lock rear wheels; and heavy-duty underreach.

C. All towing services engaged in heavy-duty recovery shall have two (2) heavy-duty wreckers with manufacturer's capacity of not less than twenty-seven thousand (27,000) pounds gross vehicle weight and boom capacity of not less than twenty-five thousand (25,000) pounds independently or twenty-four (24) tons jointly; two (2) power winches with pulling capacity of not less than twenty-five thousand (25,000) pounds each; at least two hundred (200) feet of cable at least nine-sixteenths ( $\frac{9}{16}$ ) of an inch diameter on each drum; double boom to permit splitting, or single boom hydraulically elevated and extendable with a three-hundred-and-sixty-degree swivel on the end of the boom; air brakes so constructed as to lock rear wheels; heavy-duty underreach; and two (2) snatch blocks with a twenty-five-thousand-pound rating and two (2) scotch blocks.

D. All towing vehicles must have radio equipment with a twenty-four-hour dispatch service or a cellular telephone for the purpose of maintaining communications with the Weld County Communications Center.

E. All towing vehicles must be equipped per TCR specifications and the following: at least one (1) five-pound ABC-type fire extinguisher, safety chains, substances for application to small liquid spills and stiff push brooms to clean up debris at the scene.

F. Proof of towing vehicle and equipment specifications shall be provided to the Police Department with the registration application.

G. All towing vehicles are to conform with all applicable state and federal laws and shall be subject to inspection by City officials during normal business hours at the time of registration and on an annual basis thereafter. (Ord. 585-13 §1)

#### **5.34.110 Rights of owners/operators of motor vehicles required to be towed.**

A. If a motor vehicle operator or owner wishes to have his vehicle towed by a particular towing service, his or her request shall be honored, provided that the police officer in charge at the scene has not already dispatched a towing service or the police officer has determined that the motor vehicle in question will not be removed in an expeditious or safe manner and will jeopardize the public safety, in which case the motor vehicle operator or owner shall be required to utilize a dispatched towing service.

B. The owner or operator of any motor vehicle required to be towed or stored shall have the right to remove all personal items and effects from the motor vehicle unless the Police Department has placed a police hold on any such vehicle or items.

C. A towing service shall provide a detailed and itemized bill for all services rendered. (Ord. 585-13 §1)

#### **5.34.120 Complaints, violations and hearings.**

A. All violations of this Chapter and all complaints by the public or Police Department against any towing service shall be forwarded to the Chief of Police.

B. The Chief of Police, in his or her discretion, shall determine if any complaint or violation against a towing service is of such a serious nature as to warrant a hearing and possible disciplinary measures. If the Chief of Police decides that a hearing is required, it shall, upon proper notice to all interested parties, conduct a hearing in which all parties may present evidence. If after a hearing the Chief of Police finds that a towing service has violated any provision of this Chapter, he or she may, depending on the seriousness of the offense:

1. Suspend the violating towing service from the towing list for not more than one (1) month for a first offense; not more than three (3) months for a second offense; and not more than six (6) months for a third offense.
2. Permanently remove the violating party from the towing list for having three (3) offenses within an eighteen-month period. (Ord. 585-13 §1)